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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,945	02/10/2004	Alexander B. Beaman	P1913-C2/522C-2	4257
29141 7590 08/24/2009 SAWYER LAW GROUP PC 2465 E. Bayshore Road, Suite No. 406 PALO ALTO, CA 94303				
EXAMINER BRIER, JEFFERY A				
ART UNIT 2628		PAPER NUMBER		
NOTIFICATION DATE 08/24/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patent@sawyerlawgroup.com

### Office Action Summary

**Application No.**

10/776,945

**Applicant(s)**

BEAMAN ET AL.

**Examiner**

Jeffery A. Brier

**Art Unit**

2628

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-21 is/are allowed.
- 6) ☒ Claim(s) 22-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-893)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on 06/11/2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments and amendments filed 06/11/2009 have been fully considered and they are deemed to overcome the 35 USC 112 first and second paragraph rejections set forth in the office action mailed on 03/19/2009.
3. The issue of obvious type double patenting still exists between claims 22-26 and patented claims 1-5 of U.S. Patent No. 5,926,189 since the 01/12/2009 terminal disclaimer does not reference U.S. Patent No. 5,926,189 but rather refers to U.S. Patent No. 6,714,199 which was previously referenced in the 05/21/2008 terminal disclaimer. An obvious type double patenting follows.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 22-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 5,926,189. Although the conflicting claims are not identical, they are not patentably distinct from each other because the pending method claims are obvious variation of patented claims 1-5 as discussed below.

The claims correspond to the following table.

Pending claims	Patented claims of U.S. Patent No. 5,926,189.
22	1
23	2
24	3
25	4
26	5

The following side by side comparisons compare pending claims 22-26 and patented claims 1-5.

Pending claim 22	Patented claim 1 of U.S. Patent No. 5,926,189.
22. (Currently Amended) A method for typographic glyph construction of a line of text in a graphics system running on a single computer system and output on an output device of the computer system, the method comprising:	1. An apparatus for typographic glyph construction of a line of text in a graphics system operating in a computer system, the apparatus comprising:

<p>utilizing a .glyph server to perform the following operations;</p> <p>receiving glyph codes from the graphics system in a line layout core unit and determining glyph data descriptions;</p> <p>receiving the glyph data descriptions in a glyph cache unit and determining if glyph data is in the glyph cache unit;</p> <p>permitting support of multiple font file formats with an open font architecture services unit;</p> <p>receiving requests from the open font architecture services unit in at least one font scaler unit and interpreting font data within a font file;</p> <p>handling requests for the font data in a font object management unit; and</p> <p>supporting a data structure for communication among the line layout core unit, the glyph cache unit, the open font architecture services unit, the font scaler unit, and the font object management unit.</p>	<p>a line layout core unit receiving glyph codes from the graphics system, determining glyph data descriptions and</p> <p>providing the line layout based text ordering which is also context and language dependent;</p> <p>a glyph cache unit coupled to the line layout core unit for receiving the glyph data descriptions and determining if glyph data is in the glyph cache unit;</p> <p>an open font architecture services unit coupled to the glyph cache unit for permitting support of multiple font file formats;</p> <p>at least one scaler unit coupled to the open font architecture unit for receiving requests from the open font architecture unit and interpreting font data within a font file</p> <p>including providing a moniker attached to the font data to accelerate processing and providing font data length information;</p> <p>a font object management unit coupled to the at least one font scaler and handling requests for the font data; and</p> <p>an attribute group support unit supporting a data structure for communication among the line layout core unit, the glyph cache unit, the open font architecture services unit, the font scaler unit, and the font object management unit.</p>
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Pending claim 23	Patented claim 2 of U.S. Patent No. 5,926,189.
23. (Previously Presented) The method of claim 22, further comprising:  processing a layout of the glyph codes to produce a glyph record array.	2. The apparatus of claim 1 wherein the line layout core unit further  processes a layout of the glyph codes to produce a glyph record array.
Pending claim 24	Patented claim 3 of U.S. Patent No. 5,926,189.
24. (Previously Presented) The method of claim 23, further comprising:  processing the layout for positional and non-positional adjustments.	3. The apparatus of claim 2 wherein the line layout core unit  processes the layout for positional and non-positional adjustments.
Pending claim 25	Patented claim 4 of U.S. Patent No. 5,926,189.
25. (Previously Presented) The method of claim 23, further comprising:  providing metrics and renderings to update the glyph code array.	4. The apparatus of claim 2 wherein the glyph cache unit  provides metrics and renderings to update the glyph code array.
Pending claim 26	Patented claim 5 of U.S. Patent No. 5,926,189.
26. (Previously Presented) The method of claim 25, further comprising:  updating the glyph code array with pointers to glyph renderings.	5. The apparatus of claim 4 wherein the open font architecture services unit further  updates the glyph code array with pointers to the glyph renderings.

The above comparisons illustrate the obvious differences between patented apparatus claims 1-5 and pending claims 22-26. Pending method claims 22-26 claim the same functions performed by the apparatus of patented claims 1-5. Patented claim 1 includes the claim limitation of "providing a moniker attached to the font data to

accelerate processing and providing font data length information" (column 8 lines 18-21) and "providing the line layout based text ordering which is also context and language dependent" (column 8 lines 8-9) both of which are not present in pending claim 22. Thus, slightly more narrower patented claims 1-5 anticipate slightly more broader method claims 22-26 and claim in an obvious way the same thing patented in U.S. Patent No. 5,926,189.

### ***Allowable Subject Matter***

6. Claims 19-21 are allowed. Claims 19-21 correspond to patented claims 1-3 in US Patent No. 6,714,199.
7. Claims 22-26 would be allowable if a proper terminal disclaimer is filed overcoming the obvious type double patenting based on US Patent No. 5,926,189.

### ***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery A. Brier whose telephone number is (571) 272-7656. The examiner can normally be reached on M-F from 7:30 to 4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xiao Wu can be reached at (571) 272-7661. The fax phone Number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffery A. Brier/  
Primary Examiner, Art Unit 2628